TESTIMONY OF CAROL BIEDRZYCKI
TEXAS RATEPAYERS' ORGANIZATION TO SAVE ENERGY
AUGUST 24, 2010

I. Introduction

I am Executive Director of Texas Ratepayers' Organization to save Energy (Texas ROSE). Texas ROSE is a statewide membership organization dedicated to affordable electricity and a healthy environment. I have actively participated in every energy efficiency rulemaking at the Public Utility Commission of Texas (PUC) beginning with my service as a member of the PUC staff charged with evaluating utility energy efficiency plans.

I thank you for holding this hearing today and giving me this opportunity to provide you with information about a turn of events in low-income energy efficiency programs headed in the wrong direction. Some facts for your consideration are as follows:

- About one-third of all households qualify for low-income energy efficiency programs but the PUC only requires utilities to obtain only 5 percent of all program savings from low-income programs.
- The PUC is discontinuing a requirement that a utility has to obtain 10 percent of savings from low-income programs in order to qualify for a performance bonus. The first year bonuses totaled more than $16 million.
- The PUC has provided direction to utilities approving funding cuts for low-income weatherization programs because of the stimulus funds.
- In its Legislative Appropriations Request the PUC makes no recommendation to the Legislature for weatherization program funding from the System Benefit Fund and meets a 5 percent budget reduction for the agency from the System Benefit Funds intended to serve low-income customers.

- Low-income consumers generally live in older energy inefficient housing; thus, low-income programs provide substantial energy savings and subsequent emission reductions.

II. The Need for Low-Income Weatherization

The need for weatherization is real and never diminishes, even in light of the weatherization stimulus funds. The following table "By the Numbers" which appears on the Texas Department of Housing and Community Affairs (TDHCA) website shows the need for weatherization far exceeds available resources even when considering the relatively large amount of currently available stimulus dollars in the equation. The table shows that on any given day there are 14,000 households on weatherization waiting lists.

BY THE NUMBERS

$13 million	Typical annual funding received for Texas WAP through DOE, LIHEAP and IOU's
$413	Estimated annual utility cost savings of weatherized households[1].
12.2%	Percentage of annual income Texas WAP income-eligible households pay for home energy costs[2].
3.7%	Percentage of annual income all non-WAP income eligible households pay for home energy costs[2].
3,700	Number of households that receive WAP assistance in a typical year.
14,000	Number of Texas households on WAP waiting lists on an average day.
15-20 years	Amount of time weatherization provides home energy-related cost savings.

[1] Figures provided by U.S. Department of Energy and based on national averages.

[2] 2006 estimates from Texas State Data Center

Source: http://www.tdhca.state.tx.us/ea/wap.htm#numbers

Close to 3 million households in Texas meet the income eligibility requirements for the program.[1] In any given year, an average of 0.2% of the 1.3 million households eligible at 125%

[1] According to Census Data for 2009, 1.3 million households have incomes below 125% of the FPG and approximately 2.9 million households have incomes below 200% of the FPG.

of the FPG receives Weatherization Program assistance. The $326 million[2] in stimulus funds being made available can weatherize about 70,000 homes and will only assist about 0.3% of the population eligible at 200% of the FPG.

The need for energy efficiency resources for low-income households is clear. Low-income consumers spend an average of 12.2% of their total family income on utilities compared to 3.7% for higher income families. The ability to afford utility service for refrigeration, lighting, fans, space heating and cooling, water heating and cooking is critical to millions of low-income Texans.

Low-income consumers pay rates for electric service as do all other customers on the system. Under traditional ratemaking principles, rates must be equitable. Thus, low-income consumers should not be required to pay for services that provide them no equitable benefit as this is an unfair subsidy for other customer classes. To provide equity, programs must be designed to assure that low-income consumers have access to energy efficiency programs and services. Because low-income consumers lack the income to invest in energy efficiency, the programs must be provided at no cost. It is also imperative that the improvements be made in compliance with all health, safety, and building codes. Because of the special needs of low-income consumers, the programs that are most successful are those that provide the flexibility to use utility funds in conjunction with other energy conservation programs like the federal Weatherization Assistance Program and Comprehensive Energy Assistance Program and allow the funds to be used to cover expenses that exceed government program limitations.

III. Energy Efficiency Rule Amendments

At its July 30, 2010 open meeting the PUC adopted amendments to its energy efficiency rules. The rule being sent to the Texas Register for publication has yet to be posted in the PUC's

[2] $326 million from the U.S. Department of Energy

filing retrieval system.[3] Therefore I am working with the proposed order which I believe is consistent with the decisions affecting the low-income programs as presented in this testimony.

During the deliberations on the rule the Commissioners discussed the weatherization and low-income program requirements. As a result of these discussions, programs to low income consumers will likely be reduced. This is exactly the opposite effect that PUC's rule should have on low-income consumers.

The rule adopted by the commission would maintain a requirement that five percent of all savings be obtained from households with incomes under 200% of the federal poverty guideline. This income category includes individuals with annual income at or below $21,660 and a family of four with income at or below $44,100.[4] In its final decision making process the Commission decided to maintain the 5 percent minimum but it eliminated a requirement that the a utility be required to meet 10 percent of its energy efficiency goal through low-income programs in order to qualify for a performance bonus. By eliminating this requirement the Commission has lowered the bar for providing energy efficiency for low income consumer.

In 2009 six utilities received a performance bonus in based on their programs in 2008. Thus, they were readily able to meet the 10 percent threshold without endangering the integrity of the programs.

In 2008, the utilities spent a combined amount of $91.3 million on all energy efficiency programs and requested an addition $16.2 million in performance bonuses. In, 2009, the Commission subsequently approved $14.6 million in bonuses. The bonuses add 16% to the total bringing program costs bringing total costs for 2008 to $107.3 million. That means that for

[3] PUC Project No. 37623 Rulemaking Proceeding to Amend Energy Efficiency Rules.
[4] See Federal Register/Vol. 74, No. 14 January 23, 2009.

every ten dollars consumers paid in their rates for energy efficiency programs in 2008 they are now paying an additional $1.60 in rates in 2010 to cover the cost of bonuses earned in 2008.

The performance bonus is a large amount of money. Texas ROSE has consistently opposed the payment of performance bonuses because utilities should not have to be rewarded for meeting the requirements of the law or providing good customer service. There are no audits or reviews of the accuracy of the data submitted by the utilities in support of the bonus applications. And, the bonuses increase the costs of the programs. At a minimum the utilities should have to account for these costs in the calculation of program cost effectiveness. All program costs, including bonuses should be considered when estimating cost effectiveness. For example, under the rules governing the low-income weatherization program the cost of repairs needed to install an energy efficiency measure will be paid by the program but only if the cost of the repairs still allows the measure to pay for itself in energy savings over its useful life. A performance bonus should meet the same standard.

The 5% standard has never been sufficient to meet the needs of the low-income consumer population and it is inequitable to raise program goals and energy efficiency cost recovery (EECRF) rates without raising the minimum goal for those households on the system that lack the resources to participate in energy efficiency programs. The households served by low-income weatherization programs traditionally had total household income capped at 125% of the Federal Poverty Guideline (FPG).[5] Under the hard-to-reach program and the federal stimulus program, the eligibility cap has been raised to 200% of the FPG.[6] According to Census Data for 2009, 1.3 million Texas households have incomes below 125% of the FPG and approximately

[5] See Federal Register/Vol. 74, No. 14 January 23, 2009. Income up to 125% of the FPG is $10,830 for an individual and $22,050 for a family of four.
[6] See Federal Register/Vol. 74, No. 14 January 23, 2009. Income up to 200% of the FPG is $21,660 for an individual and $44,100 for a family of four.

2.9 million have incomes below 200% of the FPG. Households below 200% of the FPG represent one third of all Texas households. These households lack the discretionary income needed to pay for energy efficiency and should be a priority target of utility energy efficiency program efforts. Programs for lower income programs have the added benefit of reducing utility costs to more affordable levels making housing more affordable and improving customers' ability to keep current on utility bills. Any decision to cut back on low-income programs reduces opportunities to achieve efficiencies in the system and creates an inequitable rate system where people who have no resources are forced to pay for programs through their rates to benefit higher income groups.

IV. Cuts in Utility Weatherization Funding

The Proposed Order in the rulemaking discusses weatherization funding and determines that the 5 percent goal is sufficient and that utilities may still qualify for a bonus, possible a reduced bonus even if the 5 percent goal is not met. *See Attachment 1.* This decision was made in light of the fact that § 39.905(f) of the Utilities Code clearly that the System Benefit Fund Program weatherization program must be funded through the energy efficiency funds if System Benefit Funds are not appropriated. *See Attachment 2.*

A group of weatherization providers contacted the Commissioners with information explaining why the utility funds are crucial to the success of the stimulus weatherization program. Despite the $6,500 increased cap on spending under the stimulus program there are still many customers who cannot be served because. A lack of sufficient funds generally occurs when the heating and air conditioning equipment need to be replaced. The cost of the equipment is substantial. The weatherization program also mandates that insulation levels be upgraded and that air infiltration be controlled. The cost of the combined measures frequently exceeds $6,500.

Because the program is comprehensive households that participate experience high levels of energy savings that substantially reduce utility bills. Without the utility funds to piggy back on the stimulus money many low-income customers will receive no energy efficiency as the weatherization program work cannot begin without having a comprehensive solution to the energy efficiency deficiencies in the dwelling unit. *See Attachment 3.*

V. Use of System Benefit Funds

Even though the Commission has established a policy that low-income weatherization need not be funded by the utilities, the agency's Legislative Appropriation Request does not request funding for the program. Rather, the PUC is using the fund as the source of a 5 percent budget reduction. The System Benefit Fund proposal allows the PUC to partially meet the mandated reduction of 10 percent in its budget which the agency claims it cannot meet and still provide adequate service.

> "The PUC's request for the electric low-income discount program for fiscal years 2012 and 2013 is based on the expended and budgeted amounts for fiscal years 2010 and2 011. The 81st Legislature capped the discount percentage at 17 percent. As a result, the PUC projects being unable to expend approximately $19.4 million dollars in appropriation authority for low-income discounts during the 2010-11 biennium. The agency's base request reflects this lapse, as well as amounts identified as a part of the mandated 5 percent GR-related appropriation reduction in for the 2010-11 biennium. As such, the Commission's low-income

discount program appropriation request is approximately $32.3 million less than the amount appropriated in the GAA for the 2010-11 biennium."[7]

Ratepayer supported programs established to assist at-risk consumers to maintain electric service should not be the source of general revenue budget cuts. The Legislature has already transformed the fund into a hidden tax by using the funds to help balance the state budget. The PUC should not be permitted to reduce benefits further to avoid making other cuts in agency's budget.

VI. Low-Income Energy Efficiency Programs Provide Substantial Energy Savings and Environmental Benefits

A recent report documents the significant energy efficiency potential in the low-income community.

> Lower-income households live in homes that average 1,480 square feet, compared to higher-income households which occupy homes that average over 2,700 square feet. Households with income below 80 percent of median income consume 28 percent more energy per square foot of living space than households with income above 120 percent of median income. Lower-income households tend to be older less well-insulated and have older less energy efficient appliances and space heating systems. The combination of these features account for much of the higher per square foot energy use in these households.[8]

[7] Legislative Appropriations Request For Fiscal Years 2012 and 2013 Submitted to the Governor's Office of Budget, Planning and Policy and the Legislative Budget Board by Public Utility Commission of Texas Revised Submission Date: August 18, 2010, p. 4.

[8] Income, Energy Efficiency and Emissions, The Critical Relationship, A paper of the Energy Programs Consortium, Suite 900, 1615 M Street, N.W. Washington, D.C. 20036, February 26, 2008.

If Texas is to meet ambitious goals to increase energy efficiency and reduce greenhouse gas emissions efficiency programs must consider household incomes as a key factor in the design of the programs. Increasing low-income energy efficiency programs will help achieve reductions in greenhouse gas emissions, and help to increase the sustainability of affordable lower-income housing.

VII. Conclusion

Low-income customers in need of energy efficiency services have a wide range of needs. Many times, the households with the greatest needs are left without or refused program services because the cost of the energy efficiency installation would exceed the limits set by other programs. We would therefore, like to see a requirement that 30% of all savings be achieved through programs for hard-to-reach customers. Consistent with this change we would recommend that performance bonuses be eliminated or require that low-income consumers must benefit from 40% of all savings through the programs.

Thank you again for the opportunity to present this information and please do not hesitate to contact me if I can provide you with additional information.

Respectfully submitted by:

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because programs for HTR customers are typically more expensive than for other customers. The commission recognizes that the U.S. DOE is providing $326 million for low-income programs in Texas, an amount that is in excess of the utilities' cumulative budgets. While it is unlikely that the program funded by the DOE and the utilities' HTR programs will serve all of the eligible customers, the same is true of programs to serve other customer classes. During the June 30 hearing, a representative of the Texas Department of Housing and Community Affairs discussed the large amount of DOE funding that has been available for low-income programs in the next couple of years. The commission believes that the utilities should be given somewhat greater latitude with respect to the HTR and low-income weatherization programs, because of this additional federal funding for similar programs. For this reason, the commission is eliminating the additional bonus for meeting 10% of savings from the HTR program. The commission is retaining the 5% goal for the HTR program, but it is modifying the bonus calculation to permit the commission to reduce the bonus if a utility does not meet the goal for the HTR program. The programs for low-income customers are important, so the commission believes that the 5% goal should be retained, and that the possibility of reducing the bonus for failure to meet the goal will provide an incentive for the utilities to pursue the HTR program. The additional funding from DOE, which may be a relatively short-term measure, may result in difficulties for energy-efficiency service providers implementing these programs, so the commission is preserving the latitude to consider the circumstances that the utility and the service providers encounter in deciding whether to reduce a bonus, if a utility fails to meet the goal.

(1) energy-smart schools;

(2) appliance retirement and recycling;

(3) air conditioning system tune-ups;

(4) the use of trees or other landscaping for energy efficiency.;

(5) customer energy management and demand response programs;

(6) high performance residential and commercial buildings that will achieve the levels of energy efficiency sufficient to qualify those buildings for federal tax incentives;

(7) programs for customers who rent or lease their residence or commercial space;

(8) programs providing energy monitoring equipment to customers that enable a customer to better understand the amount, price, and time of the customer's energy use;

(9) energy audit programs for owners and other residents of single-family or multifamily residences and for small commercial customers;

(10) net-zero energy new home programs;

(11) solar thermal or solar electric programs; and

(12) programs for using windows and other glazing systems, glass doors, and skylights in residential and commercial buildings that reduce solar gain by at least 30 percent from the level established for the federal Energy Star windows program.

(e) An electric utility may use money approved by the commission for energy efficiency programs to perform necessary energy efficiency research and development to foster continuous improvement and innovation in the application of energy efficiency technology and energy efficiency program design and implementation. Money the utility uses under this subsection may not exceed 10 percent of the greater of:

(1) the amount the commission approved for energy efficiency programs in the utility's most recent full rate proceeding; or

(2) the commission-approved expenditures by the utility for energy efficiency in the previous year.

(f) Unless funding is provided under Section 39.903, each unbundled transmission and distribution utility shall include in its energy efficiency plan a targeted low-income energy efficiency program as described by Section 39.903(f)(2), and the savings achieved by the program shall count toward the transmission and distribution utility's energy efficiency goal. The commission shall determine the appropriate level of funding to be allocated to both targeted and standard offer low-income energy efficiency programs in each unbundled transmission and distribution utility service area. The total expenditures for both targeted and standard offer low-income energy efficiency programs will be based on the amount spent by the transmission and distribution utility on the commission's hard-to-reach program in calendar year 2003. This level of funding for low-income energy efficiency programs shall be provided from money approved by the commission for the transmission and distribution utility's energy efficiency programs. The state agency that administers the federal weatherization assistance program shall provide reports as required by the commission to provide the most current information available on energy and peak demand savings achieved in each transmission and distribution utility service area.

(g) The commission may provide for a good cause exemption to a utility's liability for an administrative penalty or other sanction if the utility fails to meet a goal for energy efficiency under this section and the utility's failure to meet the goal is caused by one or more factors outside of the utility's control, including:

(1) insufficient demand by retail electric providers and competitive energy service providers for program incentive funds made available by the utility through its programs;

(2) changes in building energy codes; and

Carol Biedrzycki

From: Stella Rodriguez <stella@tacaa.org>
Sent: Friday, July 23, 2010 10:54 AM
To: Barry Smitherman; Donna Nelson
Cc: Kenneth Anderson; Jess Totten ; Katie Rich; Jason Haas; Melissa Oehler; Carol Biedrzycki; Randy Chapman
Subject: Utility Weatherization and ARRA Funds

Chairman Smitherman and Commissioner Nelson:

Thursday morning a group of weatherization providers met with Jess Totten and later in the day a smaller group met with Commissioner Anderson to respond to some discussions held at the energy efficiency workshop on June 30th and the July 15th open meeting regarding the need for utility weatherization program funding while ARRA (American Recovery and Reinvestment Act of 2009) funds are available. We understand you will be making some key decisions on the energy efficiency rule by the end of the month. We would like to convey the key information provided at these meetings to support a decision to continue to require utility funding of the low-income weatherization program.

1. The need for utility funding can best be illustrated in cases where a central heating and air conditioning system (HVAC) needs replacement. Nearly the entire $6,500 available per household under ARRA weatherization is used up on the one measure. The weatherization program requires a whole house approach to energy savings. For many homes, this takes more than any single funding source can provide. Without additional funds for air infiltration control and insulation, the home becomes a "walk away," and no work can be done - leaving a household very much in need of weatherization unserved. Eligible clients left unserved because their homes require more work than ARRA can sustain alone could put ARRA funds in jeopardy.

2. It is easy to lose sight of the real funding situation because of the big numbers associated with ARRA funding. In the meantime, funding for the regular DOE program has been reduced by 75 to 80%, and may remain at that level in coming years. When the ARRA funding goes away, the utility funds will be needed more than ever.

3. New federal requirements such as Davis Bacon Act, lead safe weatherization and historical commission review have driven up the cost of weatherization.

4. Production levels are increasing dramatically. Statewide, unit completion averaged 1,386 units for the first 5 months under ARRA. The most recent 4 week average was 2,725 units, almost double. The need is there, and now that weatherization providers have ramped up, they are meeting that need.

5. Some bad program publicity must be placed in context. The recent TDHCA monitoring has been the subject of misdirected, negative publicity. In reality, it is a measure of how <u>well</u> the TDHCA ARRA program is working. More new contractors and more new program requirements brought new challenges. Mistakes are inevitable. The monitoring is finding the mistakes and they are

being corrected. The result is better quality work, more energy savings and more utility cost savings for low-income clients.

Meeting participants included: Art Kampschafer (Community Services, Inc., Corsicana), Johnette Hicks (Economic Opportunities Advancement Corporation, Waco), Vicki Smith (Community Action Committee, Victoria), Michael DeYoung (Texas Department of Housing and Community Affairs), Randy Chapman (Texas Legal Services Corporation), Carol Biedrzycki (Texas Ratepayers' Organization to Save Energy) and Stella Rodriguez and Kerrin Meyer (Texas Association of Community Action Agencies).

We encourage you to contact us if you have any questions or need additional information.

Respectfully,

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